THE REGULATORY PROCESS IN SOUTH CAROLINA

As Amended by Act 411 of 1996 Prepared by Lynn P. Bartlett, Editor South Carolina State Editor

ASSESSMENT REPORT

If requested by two members of the General Assembly, a regulation that has a substantial economic impact must have an assessment report prepared by the Budget and Control Board, Division of Research and Statistical Services. [1-23-115(A)] The agency must submit a preliminary assessment report to the division before the date the hearing notice is published in the State Register. [1-23-110(A)(2). A summary of the preliminary assessment report must be filed with the proposed regulation [1-23-110(A)(3)(f)]. The division shall prepare a final assessment report within sixty days after the public hearing [1-23-115(B)]. The final assessment report and the summary of the final assessment report must be filed with the regulation when submitted for General Assembly review. [1-23-120(B)(4)]

DRAFTING NOTICE

Prior to promulgation, amendment or repeal of a regulation, the agency must give notice of a drafting period in the State Register[1-23-110(A)(1)]. No regulation may be submitted to General Assembly more than one year after publication of drafting notice. [1-23-120(A)]

PROPOSED REGULATION

Agency must give 30 days notice of intended action and opportunity to receive comments orally or in writing by publication of a notice of Proposed Regulation in the State Register. The notice must include the statutory authority for promulgation, the full text of the regulation, a narrative preamble which includes a section-by-section discussion, a statement of need and reasonableness, a preliminary fiscal impact statement, notice of public hearing and, if requested by two members of the General Assembly pursuant to Section 1-23-115, a summary of the preliminary assessment report. [1-23-110(A)]

PUBLIC HEARING

A public hearing, which may not be held sooner than 30 days from the date of publication of the notice in the State Register, must be granted if requested by 25 persons, a governmental subdivision or agency, or by an association having not less than 25 members. [1-23-110 A(3)] Hearings held by a department for which the governing authority is a single director must be conducted by an administrative law judge assigned by the chief judge. Hearings held by a department for which the governing authority is a board or commission must be conducted by the board or commission, with the chairman presiding. [1-23-111(A)]

EMERGENCY REGULATIONS

Agency files regulation and statement of the situation requiring immediate promulgation with Legislative Council. Regulation becomes effective as of time of filing for 90 days. [1-23-130(A)]

If filed or expire while General Assembly is in session, regulations in effect for 90 days only and may not be refiled. If filed and expire when not in session regulation may be refiled for additional 90 days. [1-23-130(C)]

The statement of need for and reasonableness of immediate promulgation and a summary of the final assessment report. if requested, are required for refiling and must be published with the emergency regulation in next issue of the State Register following the date of refiling. [1-23-130(D)]

ASSESSMENT REPORT

If requested by two members of the General Assembly an emergency regulation which has a substantial economic impact may not be refiled unless accompanied by the summary of the final assessment report prepared by the Budget and Control Board, Division of Research and Statistical Services. [1-23-130(B)]

Emergency regulations may be permanently promulgated by complying with the Administrative Procedures Act. [1-23-130(E)]

REGULATIONS PROMULGATED TO COMPLY WITH FEDERAL LAW

General Assembly review not required. Agency submits final regulation for publication in the State Register. [1-23-120(G)] Regulation effective upon publication.

GENERAL ASSEMBLY REVIEW

Agency submits the full text of the regulation, a synopsis explaining changes in existing regulations, fiscal impact statement and assessment report, if requested, [1-23-120(B)] to the President of the Senate and the Speaker of the House with a request for General Assembly review. General Assembly has 120 calendar days (during session) to review regulations.

